THE HONOURABLE SRI JUSTICE GODA RAGHURAM

Writ Petition No.18525 of 2006

Dated: 18th September, 2006

Between:

Pappala Apparao.

…..PETITIONER

AND

Assistant Commissioner, Endowments Department, Turner Chowltry complex, Visakhapatnam & 2 others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE
GODA RAGHURAM

W.P.No.18525 of 2006

ORAL ORDER:

This writ petition is filed with a grievance that the respondents are allotting land an extent of Ac.2.39 cents in Sy.No.239/4 of Nakkapalli village and Mandal, Visakhapatnam District to third parties without issuing any notice to the petitioner.

Admittedly, the land in question is endowment land and belongs to Mottumarri choultry of Nakkapalli village. The petitioner claims that his paternal grandfather cultivated the said agricultural land as tenant from 1921 till his death. After the death of Pappala Chinna, the petitioner's grandfather his son Potha Raju is said to have continued as a tenant and thereafter the petitioner claims to be cultivating the land. Petitioner states that the first respondent rented the property to the 2nd respondent for allotment as sites to weaker sections and without notice to the petitioner and without canceling all his tenancy rights. The petitioner claims to be continuing as the cultivating tenant of the lands.

Even from the facts stated in the writ petition the petitioner is neither a tenant nor a lawful cultivating tenant of the lands of Mottumarri choultry. The petitioner is a grandson of Pappala Chinna

who is claimed to have been a cultivating tenant. Thereafter, his father and the petitioner continued to cultivate the lands *de facto* without having any *de jure* rights to do so.

This *de facto* situation may have had the blessings of a succession of endowment officials and the managers of the choultry in transgression of the provisions of the Andhra Pradesh Charitable And Hindu Religious Institutions & Endowments Act, 1987 and the the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (the Rules), but such *de facto* occupation and cultivation would not elevate the status of the petitioner to a cultivating tenant. No public auction was conducted of the lands in question; no lease was granted to the petitioner and no lease deed was executed after approval of the competent authority as required under the Rules. The petitioner therefore has no *locus standi* on the assumption that he is the cultivating tenant. Petitioner's assertion is that the

1st respondent has alienated the lands belonging to Sri Mottumarri choultry in favour of the 2nd respondent. The 1st respondent is Assistant Commissioner, Endowments Department and the

2nd respondent the District Collector. The 1st respondent has no ownership rights over the lands in question. There is no provision of the Act, which has been brought to the notice of this Court, which enables or authorizes the 1st respondent to alienate lands in favour of anybody. The 1st respondent does not appear to have any authority to alienate lands of endowments institution in favour of the 2nd respondent. There is nothing on record to suggest that the

2nd respondent/District Collector will be imprudent to accept such a sale from the 1st respondent and possibly at the peril of his office and the trauma of being proceeded against as a land grabber in

appropriate proceedings. Contentions made by the petitioner therefore do not commend acceptance by this Court.

In the aforesaid circumstances, there are no merits. The writ petition is dismissed at the stage of admission. No costs.

(GODA RAGHURAM,J)

Date:18th September, 2006.
GRK